

**UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA**

DAVID MICHAELS,
Plaintiff,

v.

BARRY LISS,
Defendant.

CV 18-5789 DSF (GJSx)

Order Remanding Case

This case was previously removed and remanded. Defendant has removed the case again. Generally, removal after remand is not allowed if the second removal is on the same basis as the first. See Seedman v. U.S. Dist. Ct., 837 F.2d 413, 414 (9th Cir. 1988); Peabody v. Maud Van Cortland Hill Schroll Trust, 892 F.2d 772, 776 (9th Cir. 1990); Midlock v. Apple Vacations West, Inc., 406 F.3d 453, 456-57 (7th Cir. 2005). However, a second removal is allowed where different grounds for, or evidence in support of, removal becomes available after the first removal. See Peabody, 892 F.2d at 776; Midlock, 406 F.3d at 457. The claimed basis for jurisdiction – diversity – is the same for both removals. The removing Defendant failed to properly assert diversity jurisdiction in the first instance and is barred from a “do over.”

Therefore, the case is REMANDED to the Superior Court of California, County of Los Angeles.

IT IS SO ORDERED.

Date: 7/25/18



Dale S. Fischer
United States District Judge